



IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
FLORENCE DIVISION

CLARENCE HARDY,	§	
Petitioner,	§	
	§	
vs.	§	CIVIL ACTION NO. 4:06-1570-HFF-TER
	§	
TIM RILEY and HENRY MCMASTER,	§	
Attorney General of the State of	§	
South Carolina,	§	
Respondents.	§	

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ORDER ADOPTING THE REPORT AND RECOMMENDATION  
OF THE MAGISTRATE JUDGE

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This case was filed as a 28 U.S.C. § 2254 action. Petitioner is proceeding pro se. The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting that Respondents' Motion for Summary Judgement be granted and the petition be dismissed. The Report is made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on July 3, 2007. Both Petitioner and Respondents' objections were timely received.

The Court has reviewed Petitioner's objections, but finds them to be without merit. As for Respondents' objections, the Court agrees that the relevant inquiry in matters such as this is an objective one. *Oken v. Corcoran*, 220 F.3d 259, 264 (4th Cir. 2000) ("Although the Court rejected reference to 'all reasonable jurists' in conducting the 'unreasonable application' inquiry, we thus understand the Court to have affirmed our categorical holding that the relevant inquiry is an objective one."). Concerning Respondents' second objection, the Court finds no reversible error.

After a thorough review of the Report and the record in this case pursuant to the standards set forth above, the Court adopts the Report to the extent that it does not contradict this Order and incorporates it herein. Therefore, it is the judgment of this Court that Respondents' Motion for Summary Judgement be **GRANTED** and the petition be **DISMISSED**.

**IT IS SO ORDERED.**

Signed this 24th day of July, 2007, in Spartanburg, South Carolina.

s/ Henry F. Floyd  
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HENRY F. FLOYD  
UNITED STATES DISTRICT JUDGE

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**NOTICE OF RIGHT TO APPEAL**

Petitioner is hereby notified of the right to appeal this Order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.